

Appl. No. 09/762,739

Reply to Office Action of April 29, 2004

**REMARKS**

Claims 7-12 are pending in the present application. All of these claims stand rejected. By this Amendment, Figure 1 has been amended to include the label "Prior Art." The Applicants respectfully request for reconsideration of the rejections and objections based on the following Remarks.

The drawings were objected to based on the assertion that Figure 1 should be designated by a legend such as "Prior Art." The Amendment to Figure 1 herein is believed to address and resolve this objection.

The Office Action asserts that a reference to the prior application must be inserted in the first sentence of the specification. The Applicants respectfully disagree and submit that since the present application was a nationalization of a PCT under 35 U.S.C. §371, the insertion of such reference is not necessary and request that the Examiner indicate where in the patent rules or the M.P.E.P. that such a requirement is mandated.

Claims 7-10 and 12 were rejected under 35 U.S.C. §103(a) as being allegedly unpatentable over *Hamada* (EP 0895437 A) and further in view of *Sheperd et al.*, (EP 0399612 A2) and *Hämäläinen* (WO 9859441). The Applicants respectfully traverse this rejection based on the following comments.

The Office Action correctly recognizes that *Hamada* is silent on teaching the claimed feature of "changing, upon a disturbance of the duplex radio link, only the disturbed one of the first physical radio channel and the second physical radio channel wherein the undisturbed one of the first physical radio channel and the second physical radio channel is retained." Moreover, it would not be obvious to one of ordinary skill in the art to add such feature to *Hamada*, irrespective of the teachings of *Sheperd* or *Hämäläinen* as will be explained below.

*Hamada* specifically teaches using two out of four duplex communications slots (i.e., a second duplex communications slot) (R2, T2) and a fourth duplex communication slot (R4, T4)) that perform communication of a radio communication terminal where it is assumed that trouble has occurred in one of the two duplex communication slots and errors are repeatedly detected more than a predetermined number of times. The teachings of *Hamada* merely contemplate two pairs of communication slots (e.g., slots R2, T2 or slots R4, T4) where an undisturbed pair of communication slots out of the two pairs of slots is retained and the other pair is disturbed. In

Appl. No. 09/762,739

Reply to Office Action of April 29, 2004

contrast, the presently claimed features of claim 7 define a method where within a duplex radio link, one of the physical radio channels is left undisturbed and the other is retained. Thus, the Office Action is correct in recognizing that *Hamada* does not teach this feature. The Office Action incorrectly asserts, however, that given the teachings of *Hamada*, one of ordinary skill in the art would have been motivated to modify this teaching to include the features of either *Sheperd* or *Hämäläinen*.

In particular, although *Sheperd* et al. teaches reassignment of a single duplex channel/slot and *Hämäläinen* teaches the transmission/reception in different TDMA frames, these teachings nonetheless do not suggest to one of ordinary skill in the art how channel reassignment can be achieved in the case where only one physical radio channel of the two physical radio channels of a duplex communication slot/channel is disturbed. In particular, *Sheperd* does not even contemplate reassignment of a single duplex channel/slot due to disturbance of one channel of a duplex link. Thus, one of ordinary skill in the art would not receive teachings or motivation from *Sheperd* to modify *Hamada*, which switches both the receiving and transmission channels of a duplex channel, to change only one channel when a disturbance occurs in one of the channels. Additionally, *Hämäläinen* merely teaches the allocation of additional timeslots in separate TDMA frames where a greater number of timeslots can be allocated for the downlink frames in order to improve efficiency of radio resource allocation and not due to channel disturbance. Thus, even if one of ordinary skill in the art were to utilize the teachings of *Hämäläinen* with *Hamada*, this would not achieve the claimed features of claim 7 since *Hämäläinen* is silent about what to do in the case of a disturbance and thus, one is left with the teaching of changing both the receive and transmit channels of *Hamada*, even though the capacity of each channel may be different in accordance with the teachings of *Hämäläinen*. Accordingly, the Applicants respectfully submit that one of ordinary skill in the art would not be motivated or receive teaching to arrive at the teachings of claim 7 given the cited prior art. Accordingly, the Applicants respectfully request reconsideration and withdrawal of this rejection.

With respect to dependent claims 8-10 and 12, these claims are believed to be allowable on their merits and also due to their dependency on independent claim 7.

Appl. No. 09/762,739  
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Claim 11 was rejected under 35 U.S.C. §103(a) as being unpatentable over *Hamada* in view of *Sheperd* and *Hämäläinen* and further in view of *Gitlin et al.*, (U.S. Patent No. 6,018,528). The Applicants respectfully traverse this rejection and submit that this claim is also allowable on its merits and at least due to its dependency on independent claim 7.

In light of the foregoing, the Applicants respectfully submit that the application is in condition for allowance and request that a timely Notice of Allowance be issued in this case.

Respectfully submitted,

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